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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ORDERED SEALED BY COURT

UNITED STATES OF AMERICA, Plaintiff, v. FRANK BERTOLINO III, DOMINICK BERTOLINO, Defendants.	)	Magistrate Case No. '08 MJ 1684 COMPLAINT FOR VIOLATION OF 21 U.S.C. § 841(a)(1) and 846 - Conspiracy to Distribute a Controlled Substance (Cocaine)

The undersigned complainant being duly sworn states:

Beginning at a date unknown and continuing up to including May 27, 2008, within the Southern District of California, defendants Frank Bertolino III and Dominick Bertolino did knowingly and intentionally conspire with each other and with others to distribute quantities of cocaine, a Scheduled II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 846.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

DEREK KINNINGER, Special Agent
Drug Enforcement Administration

Sworn to before me and subscribed in my presence, May, 28, 2008

United States Magistrate Judge

AFFIDAVIT IN SUPPORT OF COMPLAINT

UNITED STATES OF AMERICA)
) **SS**
SOUTHERN DISTRICT OF CALIFORNIA)

I, Derek Kinninger, being duly sworn, declare and state:

1. I am a Special Agent with the United States Drug Enforcement Administration ("DEA) and have been employed as such since 1990. I am assigned to the DEA San Diego, California Resident Office.

2. I make this affidavit in support of an application for a criminal complaint charging Frank Bertolino III (hereafter Frank Bertolino) and Dominick Bertolino with Conspiracy to Distribute a Controlled Substance (cocaine), in violation of Title 21, United States Code Sections 841(a)(1) and 846 and for the issuance of warrants for their arrest.

3. The information contained in this affidavit is based on my own investigation, oral and written reports by other law enforcement officers, including El Cajon Police Detective Royal Bates who made undercover controlled buys of cocaine from Frank Bertolino and Dominick Bertolino and El Cajon Police Sgt. Michael Hook, interviews with sources of information, subpoenaed and public records, vehicle records from the California Department of Motor Vehicles ("DMV"), database checks, and searches. Since this affidavit is for a limited purpose, I have not included every fact I know about this investigation.

FACTS ESTABLISHING PROBABLE CAUSE

4. During April 2007, Detectives from the El Cajon Police Department advised me that as a result of a narcotics investigation they believed that Frank Bertolino was currently distributing controlled substances in the east county portion of San Diego. As described below, during the course of the investigation several purchases of cocaine were made by an undercover police detective. Except where otherwise indicated, all of the cocaine that was purchased by the undercover officer was laboratory tested and conclusively determined to be cocaine at the net weights indicated.

5. On September 7, 2007, during a recorded telephone conversation, Frank Bertolino agreed to meet with undercover police Detective Royal Bates at the 7-Eleven parking lot located at 1498 Jamacha Road, El Cajon, California for purposes of selling the undercover officer an ounce of cocaine.

Thereafter, Frank Bertolino arrived at the 7-Eleven parking lot driving a Cadillac Escalade. Detective Bates walked over to the passenger side of Bertolino's vehicle and opened the passenger door. As soon as Detective Bates opened the door, he saw a bag of white powdery substance sitting on the center console in plain view. During an ensuing conversation, which was recorded, Detective Bates handed Frank Bertolino $600 in cash. Frank Bertolino in turn handed Detective Bates a baggie containing approximately 27.8 grams (net weight) of cocaine.

6. On September 12, 2007, during a recorded telephone conversation, Frank Bertolino agreed to meet with Detective Bates at the 7-Eleven parking lot located at 1498 Jamacha Road, El Cajon, California for the purpose of delivering cocaine to Bates. Thereafter, Frank Bertolino arrived at the 7-Eleven parking lot driving a black Range Rover at approximately 2:56 p.m. Detective Bates approached the passenger side of the Range Rover. Frank Bertolino rolled down his window. Frank Bertolino reached into his pocket, pulled out a ziplock baggie containing approximately 14.1 grams (net weight) of cocaine, and handed it to Detective Bates. Detective Bates then handed Frank Bertolino three $100 bills. Prior to this transaction taking place, at approximately 2:42 p.m., El Cajon Police Sargent Michael Hook took up a surveillance position within several hundred feet of 1258 Bernita Road, El Cajon, California. The residence at 1258 Bernita Road is located approximately one-half mile from the 7-Eleven. Sgt. Hook observed a black Range Rover turn westbound on Bernita Road from the driveway of 1258 Bernita Road.

7. On October 3, 2007, during a telephone conversation, Frank Bertolino agreed to meet Detective Bates at the 7-Eleven parking lot located at 1498 Jamacha Road, El Cajon, California for the purpose of delivering cocaine to Bates. Thereafter, Frank Bertolino arrived at the 7-Eleven parking lot at 3:26 p.m. driving a silver colored 3 series BMW convertible. A young female (approximately 18 to 23 years of age) was in the passenger seat. Frank Bertolino parked the BMW and got out of his vehicle as Detective Bates got out of his vehicle. Frank Bertolino thereafter handed Detective Bates a baggie containing approximately 28.1 grams (net weight) of cocaine. Detective Bates in turn paid Frank Bertolino $600. Prior to this controlled purchase Sgt. Hook had set up surveillance in the area of 1258 Bernita Road. Sgt. Hook observed a silver BMW 3 Series leaving the area of 1258 Bernita Road at 3:20

p.m. Approximately six minutes later, I observed Frank Bertolino arrive at the 7-Eleven store on Jamacha Boulevard, at which time he conducted the transaction with Detective Bates.

8. On October 18, 2007, during a telephone conversation, Frank Bertolino agreed to provide Detective Bates with cocaine at the 7-Eleven parking lot located at 1498 Jamacha Road, El Cajon, California. While Detective Bates was en route to the 7-Eleven parking lot, Frank Bertolino called Detective Bates and said that his brother would be meeting with Detective Bates. Thereafter, Dominick Bertolino arrived at the 7-Eleven parking lot as the passenger in a black BMW 745i Series vehicle driven by an unidentified white male. Detective Bates approached the passenger side of the BMW and gave Dominick Bertolino $600. Dominick Bertolino in turn handed Detective Bates a plastic sandwich baggie containing approximately 27.5 grams (net weight) of cocaine. During a telephone call later in the day, Frank Bertolino told Detective Bates that the person that accompanied Dominick Bertolino was a bodyguard.

9. On November 9, 2007, during a telephone conversation, Frank Bertolino agreed to meet Detective Bates at the 7-Eleven parking lot located at 1498 Jamacha Road, El Cajon, California. Thereafter, Frank Bertolino arrived at the 7-Eleven parking lot at approximately 2:05 p.m., driving a white convertible BMW 645ci. Detective Bates approached the passenger side of the BMW and saw Frank Bertolino holding a ziplock baggie containing a white substance. Frank Bertolino handed Detective Bates the baggie, which contained approximately 55.9 grams (net weight) of cocaine. Detective Bates in turn gave $1,200 to Frank Bertolino for the cocaine. Prior to this purchase being made, at approximately 2:00 p.m., Sgt. Hook established a surveillance position in the area of 1258 Bernita Road, El Cajon, California, where he saw a late model BMW sedan leave the area. Approximately five minutes later, agents observed the same BMW arrive at the 7-Eleven store on Jamacha Boulevard. After the controlled buy took place, Sgt. Hook saw Frank Bertolino driving the BMW on Bernita Road back towards the residence at 1258 Bernita Road.

10. On December 4, 2007, during a telephone conversation, Frank Bertolino agreed to meet Detective Bates at the 7-Eleven parking lot located at 1498 Jamacha Road, El Cajon, California for the purpose of delivering cocaine to Bates. Frank Bertolino thereafter arrived at the 7-Eleven parking lot driving a black Ranger Rover at approximately 2:15 p.m.. Detective Bates walked over to the

passenger side of the Range Rover, opened the door and got in. At that time, Frank Bertolino handed Detective Bates a plastic baggie containing approximately 83.7 grams (net weight) of cocaine. Detective Bates in turn paid $1,800 to Frank Bertolino. Prior to this purchase taking place, Sgt. Hook observed a black Range Rover leave the driveway of 1258 Bernita Road at approximately 2:12 p.m.. A short time later I observed the described Range Rover arrive at the 7-Eleven parking lot and thereafter saw Frank Bertolino conduct the controlled sale of cocaine to Detective Bates. Shortly thereafter, Sgt. Hook observed Frank Bertolino driving the Range Rover back into the driveway of 1258 Bernita Road.

11. On January 9, 2008, Detective Bates called Frank Bertolino and told him he needed two ounces of cocaine and that he, Detective Bates, was en route to the 7-Eleven parking lot at 1498 Jamacha Road, in El Cajon, California. Frank Bertolino said that he did not know if he had that much cocaine and he would have to call Detective Bates back. Frank Bertolino called Detective Bates back and said he would be able to provide the cocaine. Thereafter Frank Bertolino arrived at the 7-Eleven parking lot driving a black Range Rover. Detective Bates got into the left rear passenger seat of the Range Rover behind Frank Bertolino. Another male, later identified as Shawn Carley, was in the right front passenger seat. Frank Bertolino then delivered a ziplock baggie containing approximately 55.2 grams of cocaine (net weight) to Detective Bates. Detective Bates in turn handed Frank Bertolino $1,200 for the cocaine.

12. On February 1, 2008, Detective Bates called Frank Bertolino and told him he needed two ounces of cocaine. Thereafter, Frank Bertolino arrived at the 7-Eleven parking at 4:01 p.m., at 1498 Jamacha Road, in El Cajon, California in a Hertz rental white Hummer H3 bearing California license plate number 5ZMX363, driven by a blond white female. Frank Bertolino got out of the Hummer H3 and walked over to Detective Bates. During this meeting Frank Bertolino gave Bates two clear plastic baggies containing approximately 55.2 grams (net weight) of cocaine. Detective Bates in turn handed Frank Bertolino $1,200. Prior to the transaction taking place, at approximately 3:52 p.m., Sargent Hook observed a white Hummer 3 and black Range Rover pull into the driveway of 1258 Bernita Road. After Frank Bertolino exited the Hummer and conducted the sale of two ounces of

cocaine with the undercover police officer, Frank Bertolino returned to the Hummer and was observed by Sargent Hook to arrive back in driveway of 1258 Bernita Road at 4:05 p.m..

13. During late February 2008, I along with Task Force Officer Rick Ellington drove by the residence at 1258 Bernita Road, El Cajon, California. At that time I observed the white Hummer H3 bearing California license plate number 5ZMX363 parked in the driveway at 1258 Bernita Road. I also saw a black Ford Ranger pickup registered to Sean Carley parked in the driveway at 1258 Bernita Road. I also saw a white BMW 6 series with Cunningham BMW paper plates parked in the driveway

14. On April 3, 2008, Detective Bates purchased approximately three ounces of a white crystalline powder which presumptively tested positive for cocaine from Frank Bertolino at the 7-Eleven parking lot located at 1498 Jamahca Road, El Cajon, California. Detective Bates contacted Frank Bertolino in a white Range Rover SUV. The Range Rover was being driven by a white female adult, who was later identified as Amanda Jean Holland and Frank Bertolino was occupying the passenger side. During the surveillance, I observed the white Ranger Rover with after market wheels bearing paper plates saying European Coach. European Coach is a car dealership located on Mission Gorge Road in San Diego, California. I observed the Range Rover driving westbound on Chase Avenue until the vehicle was lost from sight.

15. On April 24, 2008, Detective Will Guerin of the El Cajon Police Department conducted surveillance at the 1258 Bernita Road address. Detective Guerin observed none of the vehicles owned or driven by Frank Bertolino, Dominick Bertolino or Sean Carley were present in the driveway of the residence. Detective Guerin also observed realty signs posted indicating the residence was currently for sale. Detective Guerin looked through a garage window and observed the garage to the residence was empty. Detective Guerin also looked through the open blinds of a living room window and observed the house to be completely empty.

16. On or about May 5, 2008, I reviewed SDG&E records which reflect that a bill account was created in the name of Dominick Bertolino on March 21, 2008 at 1140 Monterey Drive, El Cajon, California, which indicates that the utility service was initiated on March 21, 2008. The residence at 1140 Monterey Drive is located approximately one and one-half miles away from 1258 Bernita Road.

17. During May 2008,. Detective Guerin conducted a check through a Multiple Listing Service ("MLS") which showed that the residence located at 1258 Bernita Road had been foreclosed and was currently bank owned.

18. On May 15, 2008, at approximately 7:00 p.m., surveillance was initiated in the area of the residence located at 1140 Monterey Drive, in El Cajon, California. At approximately 7:30 p.m., Sgt. Hook observed Sean Carley arrive at 1140 Monterey Drive, driving a white Range Rover SUV. Carley parked the Range Rover in the driveway. Carley went into the back door of the main residence at 1140 Monterey Drive. At around the same time, I observed Dominick Bertolino exit the area of what appears to be a guest house and go to the back door of the main residence. Dominick Bertolino then walked to the area of the front door of the apparent guest house and disappeared. At approximately 9:05 p.m., I observed the white Range Rover driven by Sean Carley (which appeared identical to the Range Rover I observed during the cocaine transaction on April 3, 2008), driving westbound on Merritt Drive, southbound on Anza Street and westbound on Chase Avenue driving towards a Vons supermarket at Avocado Boulevard and Chase Avenue in El Cajon. Merritt Drive, where I first observed Carley, is approximately one quarter mile southwest of 1140 Monterey Drive. In addition, Sgt. Hook observed a black Ford Ranger pickup previously seen driven by and registered to Sean Carley parked west of the garage on the property located at 1140 Monterey Drive. Based on these observations, it is possible that Sean Carley may reside at 1140 Monterey Drive.

19. On May 15, 2008, at approximately 7:57 p.m., Detective Bates called Frank Bertolino. During the telephone conversation Bertolino questioned the undercover officer as to his identity. Once the undercover officer identified himself to Bertolino, Bertolino asked the undercover officer why it had been so long since their last contact. Detective Bates explained his reasons and told Frank Bertolino that he would be coming back into town in a couple of days. Detective Bates asked Bertolino if they would be able to "hook up," inferring that he wanted to purchase a quantity of cocaine when he got back into town. Bertolino told the undercover officer that it would not be a problem.

20. On May 16, 2008, a subpoena was issued to Helix Water District/Customer Information requesting subscriber information for 1140 Monterey Drive, El Cajon. According to Helix Water District, Dominick Bertolino was the subscriber on the account with services being initiated on March

24, 2008. These records reflected no separate utilities for any other structure located at 1140 Monterey Drive, El Cajon, California.

21. On May 16, 2008, Detective Bates placed a recorded telephone call to Frank Bertolino for the purpose of purchasing cocaine. Prior to the transaction taking place, Sargent Hook set up surveillance in the area of 1140 Monterey Drive, El Cajon, California. Sgt. Hook observed a white Acura Integra bearing California license plate number 6APU328, leave the driveway of the residence at 1140 Monterey Drive. At approximately 9:44 p.m., the same white Acura arrived at the 7-Eleven parking lot located at 1498 Jamacha Boulevard, El Cajon, California. A California DMV record check revealed that the white Acura Integra is registered to Dominick Bertolino at P.O. Box 20064 in El Cajon, California. Dominick Bertolino was driving the Acura while Frank Bertolino was the passenger. Detective Bates approached the driver's window and spoke with Frank Bertolino. Frank Bertolino handed Bates approximately one ounce of what tested presumptively positive for cocaine. Detective Bates handed $600 to Frank Bertolino. At approximately 9:45 p.m., the Acura left the 7-Eleven. At approximately 9:49 p.m., Sgt. Hook observed the white Acura Integra return to 1140 Monterey Drive and park in the driveway. Sgt. Hook observed two males exit the Acura and enter the main residence at 1140 Monterey Drive through the rear door.

22. On May 20, 2008, I conducted a record check with the Helix Water District which revealed that the water service for 1258 Bernita Road was in the name of Dominick Bertolino from July 5, 2007 to March 25, 2008. Records also revealed that as of April 1, 2008, water service for this address was in the name of MD Web and Associates.

23. On May 20, 2008, at approximately 1:00 p.m., Sgt. Hook saw a white BMW 3 series parked in the driveway at 1140 Monterey Drive. Also parked in the driveway was the white Acura Integra with California license plate number 6APU328. At about 1:35 p.m, Sgt. Hook saw Dominick Bertolino exit the area of the guest house located at 1140 Monterey Drive. From the location of the guest house in relation to the main house, it appeared that Dominick Bertolino had just exited the apparent guest house. At about 1:35 p.m., Dominick got into a white BMW 3 series with European Auto Coach paper plates and left. Sean Carley arrived at the main residence at 1140 Monterey Drive shortly thereafter. At 1:42 p.m., a silver sedan arrived occupied by a white female with blond hair who walked

to the rear door of the main residence at 1140 Monterey Drive. At 1:55 p.m., Carley and the same female came back and were sitting on the couch on the porch at 1140 Monterey Drive. At 2:10 p.m., Carley and the white female got into the silver sedan and left.

24. On May 20, 2008, Detective Guerin and Sgt. Hook conducted a trash search from a trash bag located adjacent to the driveway at 1140 Monterey Drive between the main residence and the apparent guest house. Detectives located several personal checks in the name of Dominick Bertolino and Amanda Holland discarded in the trash. In addition, Detectives located an insurance card from Viking Insurance in the name of Dominick Bertolino.

25. On May 20, 2008, Sgt. Hook and Detective Guerin contacted a citizen who said that the he/she knew a person who identified himself as "Frank" to reside at 1140 Monterey Drive. According to the citizen, Frank identified the female as his wife. The citizen said that "Frank" claimed to be in the car business. The citizen said that "Frank" had moved into the residence approximately seven weeks prior. Detectives showed the citizen separate photographs of Frank Bertolino and Amanda Holland. The citizen positively identified the photograph of Frank Bertolino as the same individual he knew as "Frank". The citizen identified the photograph of Amanda Holland as the same individual he knew as "Frank's wife." The citizen said that other males also resided at 1140 Monterey Drive. The citizen identified a picture of Dominick Bertolino and said that he/she thought he was the one who drove a black truck. The citizen pointed to the front door of the main residence at 1140 Monterey Drive and said that was the building where "Frank" lived.

26. Based on the forgoing, I believe that Frank Bertolino and Dominick Bertolino used the prior residence located at 1258 Bernita Road, El Cajon, California for the purpose of storing and distributing cocaine. I further believe, that based on the forgoing, that Frank and Dominic Bertolino have moved their place of storing and distributing cocaine to their current residence located on the premises at 1140 Monterey Drive, El Cajon, California.

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27. Based on the forgoing, I believe that there is probable cause to believe that Frank Bertolino and Dominick Bertolino have committed a violation of Title 21, United States Code Sections 841(a)(1) and 846, Conspiracy to Distribute Controlled Substances (cocaine).

I declare under penalty of perjury that the foregoing is true and correct.

DEREK KINNINGER
Special Agent
Drug Enforcement Administration

Sworn to and subscribed before me
this 28th day of May, 2008.

United States Magistrate Judge